

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

ADJUSTACAM LLC

v.

AMAZON.COM, INC. ET AL.

NO. 6:10-cv-329-LED

JURY

**PLAINTIFF'S RESPONSE TO CDW'S NOTICE OF JOINDER FOR PARTIAL  
SUMMARY JUDGMENT REGARDING PRE-SUIT DAMAGES PURSUANT TO  
SECTION 287(A) FILED BY CERTAIN DEFENDANTS**

The plaintiff, AdjustaCam, LLC ("AdjustaCam"), hereby responds to Notice of Joinder (Dkt. No. 518) filed by Defendant CDW, LLC ("CDW"), as follows:

I.

CDW's Notice of Joinder does not appear to add anything substantive to the Defendants' Motion for Partial Summary Judgment, except that CDW has added itself to the list of Movants on the same grounds. Thus, in the interest of not burdening the Court with repetitive briefing, in response to CDW's Notice of Joinder, Plaintiff incorporates its response to the Motion for Partial Summary Judgment (Dkt. No. 489). Thus, to summarize, AdjustaCam does not contest the veracity of CDW's declaration, and thus it does not claim entitlement to pre-suit damages against CDW pursuant to 35 U.S.C. § 287(a).

Irrespective of the foregoing, the proposed Order submitted by CDW (which mimics the proposed Order submitted by the original Movants) appears overbroad and inappropriate. As explained in Plaintiff's Response at Dkt. No. 489, the appropriate relief relative to the Motions would be either to deny the Motions as moot since Movants' issues are uncontested at this point, or if the Court is so inclined, to rule that AdjustaCam is not entitled to pre-suit damages *from the*

*Movants* pursuant to 35 U.S.C. § 287(a).” Submitted herewith are two proposed orders reflecting the foregoing choices for the Court.

WHEREFORE, premises considered, Plaintiff AdjustaCam LLC respectfully requests the foregoing relief, and any such other relief to which it may be entitled.

September 30, 2011

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF  
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### **CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court’s CM/ECF system per Local Rule CV-5(a)(3).

September 30, 2011

/s/ John J. Edmonds  
John J. Edmonds